IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.392 OF 2007
CONNECTED WITH
COMPANY APPLICATION NO.501 OF 2007

In the matter of Scheme of Amalgamation of INDUS BUSINESS CONSULTANTS PRIVATE LIMITED with INDUS INFOTECH SYSTEMS PRIVATE LIMITED

INDUS BUSINESS CONSULTANTS PRIVATE LIMITED ..Petitioner Company

WITH

COMPANY PETITION NO.393 OF 2007
CONNECTED WITH
COMPANY APPLICATION NO.502 OF 2007

In the matter of Scheme of Amalgamation of INDUS BUSINESS CONSULTANTS PRIVATE LIMITED with INDUS INFOTECH SYSTEMS PRIVATE LIMITED

INDUS INFOTECH SYSTEMS PRIVATE LIMITED ..Petitioner Company

Mr.Rajesh Shah i/b. M/s.Rajesh Shah & Co. for the petitioner
Mr.Vijay Ramakantha, Dy.O.L only in C.P.No.392 of 2007

Mr.C.J.Joy with G.C.Mishra – R.D. In both matters

CORAM : D.B.BHOSALE, J.

DATE : 4TH AUGUST, 2007

P.C.

1. The sanction of the Court is sought to a Scheme of Amalgamation under Sections 391 to 394 of the Companies Act, 1956.

2. Counsel appearing on behalf of the petitioner has stated before the Court that insofar as the Transferor is concerned : (i) All the equity shareholders have granted their consents; (ii) There are no secured creditors; and (iii) Individual notices were dispatched to all the unsecured creditors in pursuance of the directions issued by this Court while dispensing with the convening of the meeting of the unsecured creditors.

3. Insofar as the Transferee Company is concerned, the Court has been informed by the learned Counsel that : (i) All the equity

shareholders have granted their consents; (ii) There are no secured creditors; and (iii) Individual notices were dispatched to all the unsecured creditors in pursuance of the directions issued by this Court while dispensing with the convening of the meeting of the unsecured creditors.

4. The Regional Director in his affidavit dated 4th July, 2007 has stated that Transferee Company is 100% subsidiary of the foreign Company and as regards Transferor Company 20% of the total equity share capital is held by Non-resident Indian and 80% of the total equity share capital is held by Resident Indians. In view thereof, he has further stated that the scheme may be considered subject to RBI Guide lines as may be applicable in the instant case. To this objection the petitioner Company by their reply dated 11th July, 2007 have stated that the issue of shares by the Petitioner Company to Non resident Investor is governed by Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations,

2000 (“RBI Guidelines”). They have also placed a copy of the RBI Guidelines on record. It is further stated that under Regulation 5(1) read with Schedule I and Annexure B thereto of the RBI Guidelines, the Petitioner Company is permitted to issue shares to persons resident outside India under the automatic route up to 100% of its share capital. In view of this explanation, Mr.C.J.Joy, learned counsel for the Regional Director submits that the explanation be accepted. In the circumstances, the explanation is accepted.

5. Both the Regional Director and the Official Liquidator have stated that the Scheme as proposed is not contrary to the public interest or prejudicial to the interest of the shareholders or creditors.

6. There is no objection to the scheme and since all the requisite statutory compliances have been fulfilled, Company Petition No.392 of 2007 is made absolute in terms of prayer clauses (a) to (j).

7. Company Petition No.393 of 2007 is made absolute in terms of prayer clauses (a) to (i).

8. The petitioner Company to lodge authenticated copy of the order and a Scheme with the concerned Superintendent of Stamps for the purpose of adjudication of stamp duty payable on the same, if any, within 30 days of obtaining certified copy of the order or copy of the order duly authenticated by the Company Registrar, High Court, Bombay.

9. The petitioners to pay costs of Rs.2,500/- each to the Regional Director and to the Official Liquidator in Company Petition No.392 of 2007.

10. Filing and issuance of drawn up order is dispensed with.

11. All the concerned parties to act on an authenticated copy of this order and the Scheme

annexed to the petition duly signed by the Company Registrar.

(D.B.BHOSALE, J.)